



General Assembly

Substitute Bill No. 334

February Session, 2002

AN ACT CONCERNING DOMESTIC VIOLENCE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2002*) (a) A person is guilty of
2 criminal violation of a restraining order when an order issued
3 pursuant to section 46b-15 of the general statutes, as amended by this
4 act, has been issued against such person, and such person violates such
5 order.

6 (b) Criminal violation of a restraining order is a class A
7 misdemeanor.

8 Sec. 2. (NEW) (*Effective October 1, 2002*) (a) The Superior Court shall
9 refer any person who applies for a restraining order in a domestic
10 violence situation to a victim advocate or domestic violence counselor
11 to ensure that said person understands his or her obligations to appear
12 for a hearing pursuant to section 46b-15 of the general statutes, as
13 amended by this act.

14 (b) If a person found guilty of violating a restraining order under
15 section 1 of this act is not sentenced to a term of imprisonment, the
16 court shall state for the record the reasons for such decision.

17 Sec. 3. Section 53a-223 of the general statutes is repealed and the
18 following is substituted in lieu thereof (*Effective October 1, 2002*):

19 (a) A person is guilty of criminal violation of a protective order
20 when an order issued pursuant to subsection (e) of section 46b-38c, or
21 section 54-1k or 54-82r has been issued against such person, and such
22 person violates such order.

23 (b) Criminal violation of a protective order is a class [A
24 misdemeanor] D felony.

25 Sec. 4. Section 53a-40d of the general statutes is repealed and the
26 following is substituted in lieu thereof (*Effective October 1, 2002*):

27 (a) A persistent offender of crimes involving assault, stalking,
28 trespass, threatening, harassment, [or] criminal violation of a
29 protective order or criminal violation of a restraining order is a person
30 who (1) stands convicted of assault under section 53a-61, stalking
31 under section 53a-181d, threatening under section 53a-62, as amended,
32 harassment under section 53a-183, criminal violation of a protective
33 order under section 53a-223, as amended by this act, criminal violation
34 of a restraining order under section 1 of this act or criminal trespass
35 under section 53a-107 or 53a-108, and (2) has, within the five years
36 preceding the commission of the present crime, been convicted of a
37 capital felony, a class A felony, a class B felony, except a conviction
38 under section 53a-86 or 53a-122, a class C felony, except a conviction
39 under section 53a-87, 53a-152 or 53a-153, or a class D felony under
40 sections 53a-60 to 53a-60c, inclusive, 53a-72a, 53a-72b, 53a-95, 53a-103,
41 53a-103a, 53a-114, 53a-136 or 53a-216, assault under section 53a-61,
42 stalking under section 53a-181d, threatening under section 53a-62, as
43 amended, harassment under section 53a-183, criminal violation of a
44 protective order under section 53a-223, as amended by this act,
45 criminal violation of a restraining order under section 1 of this act, or
46 criminal trespass under section 53a-107 or 53a-108 or has been released
47 from incarceration with respect to such conviction, whichever is later.

48 (b) When any person has been found to be a persistent offender of
49 crimes involving assault, stalking, trespass, threatening, harassment,
50 [or] criminal violation of a protective order or criminal violation of a

51 restraining order, and the court is of the opinion that [his] such
52 person's history and character and the nature and circumstances of
53 [his] such person's criminal conduct indicate that an increased penalty
54 will best serve the public interest, the court shall, in lieu of imposing
55 the sentence authorized for the crime under section 53a-36 or section
56 53a-35a, as applicable, impose the sentence of imprisonment
57 authorized by said section 53a-36 or section 53a-35a for the next more
58 serious degree of misdemeanor or felony, except that if the crime is a
59 class A misdemeanor the court shall impose the sentence of
60 imprisonment for a class D felony, as authorized by section 53a-35a.

61 Sec. 5. Subsection (b) of section 54-1g of the general statutes is
62 repealed and the following is substituted in lieu thereof (*Effective*
63 *October 1, 2002*):

64 (b) Any arrested person who is charged with a violation of section
65 53a-223, as amended by this act, or a violation of section 1 of this act
66 shall be promptly presented to the superior court next sitting for the
67 geographical area where the offense is alleged to have been committed.
68 If the alleged offense was committed in a geographical area of the
69 Superior Court other than the geographical area where the protective
70 or restraining order was issued, the prosecutorial official for the
71 geographical area of the Superior Court where the alleged offense was
72 committed shall notify the prosecutorial official for the geographical
73 area where the protective or restraining order was issued of the alleged
74 violation of such protective or restraining order. On motion of any
75 party or the court, the prosecution of such offense may be transferred
76 to the superior court for the geographical area where the protective or
77 restraining order was issued.

78 Sec. 6. Subsection (c) of section 54-69 of the general statutes is
79 repealed and the following is substituted in lieu thereof (*Effective*
80 *October 1, 2002*):

81 (c) Notwithstanding the provisions of subsection (b) of this section,
82 a hearing may be had on an application by any such state's attorney

83 without a copy of such application and notice of the hearing being
84 served upon the surety or sureties upon such bond, if any, the
85 appropriate bail commissioner and the accused person if the accused
86 person is charged with the commission of a family violence crime, as
87 defined in section 46b-38a, or a violation of section 53a-181c, 53a-181d,
88 53a-181e, [or] 53a-223, as amended by this act, or section 1 of this act
89 and is being presented at the next sitting of the Superior Court as
90 required by section 54-1g, as amended by this act.

91 Sec. 7. (NEW) (*Effective October 1, 2002*) Upon the receipt of a report
92 of suspected abuse of any child committed to the Commissioner of
93 Children and Families as delinquent, the Department of Children and
94 Families shall immediately notify the child's legal guardian and any
95 attorney of record for such child in any court proceeding of such
96 report. If, after investigation, the department substantiates the
97 reported abuse, the department shall immediately notify such legal
98 guardian, such attorney, the judge who ordered the commitment of the
99 child to the commissioner and the Office of the Child Advocate of the
100 substantiation of the reported abuse.

101 Sec. 8. Subsection (e) of section 46b-15 of the general statutes, as
102 amended by section 12 of public act 01-130, is repealed and the
103 following is substituted in lieu thereof (*Effective October 1, 2002*):

104 (e) The applicant shall cause notice of the hearing pursuant to
105 subsection (b) of this section and a copy of the application and of any
106 ex parte order issued pursuant to subsection (b) of this section to be
107 served on the respondent not less than five days before the hearing.
108 Upon the granting of an ex parte order, the clerk of the court shall
109 provide two certified copies of the order to the applicant and a copy to
110 the Family Division. Upon the granting of an order after notice and
111 hearing, the clerk of the court shall provide two certified copies of the
112 order to the applicant and a copy to the Family Division and a copy to
113 the respondent. Every order of the court made in accordance with this
114 section after notice and hearing shall contain the following language:
115 "This court had jurisdiction over the parties and the subject matter

116 when it issued this protection order. Respondent was afforded both
 117 notice and opportunity to be heard in the hearing that gave rise to this
 118 order. Pursuant to the Violence Against Women Act of 1994, 18 USC
 119 2265, this order is valid and enforceable in all fifty states, any territory
 120 or possession of the United States, the District of Columbia, the
 121 Commonwealth of Puerto Rico and tribal lands." Immediately after
 122 making service on the respondent, the state marshal shall provide a
 123 true and attested copy of any ex parte order including a cover sheet
 124 stating the date and time the respondent was served to the law
 125 enforcement agency for the town in which the applicant resides. If the
 126 respondent was not served in such town, the state marshal shall
 127 immediately transmit by facsimile a true and attested copy to the law
 128 enforcement agency for the town in which the respondent was served.
 129 The clerk of the court shall send a certified copy of any ex parte order
 130 and of any order after notice and hearing to the law enforcement
 131 agency for the town in which the applicant resides and, if the
 132 respondent resides in a town different than the town in which the
 133 applicant resides, to the law enforcement agency for the town in which
 134 the respondent resides, within forty-eight hours of the issuance of such
 135 order. If the applicant is employed in a town different than the town in
 136 which the applicant resides, the clerk of the court shall, upon the
 137 request of the applicant, send a certified copy of any such order, to the
 138 law enforcement agency for the town in which the applicant is
 139 employed within forty-eight hours of the issuance of such order.

This act shall take effect as follows:	
Section 1	<i>October 1, 2002</i>
Sec. 2	<i>October 1, 2002</i>
Sec. 3	<i>October 1, 2002</i>
Sec. 4	<i>October 1, 2002</i>
Sec. 5	<i>October 1, 2002</i>
Sec. 6	<i>October 1, 2002</i>
Sec. 7	<i>October 1, 2002</i>
Sec. 8	<i>October 1, 2002</i>

Statement of Legislative Commissioners:

In subdivision (2) of subsection (a) of section 4, the phrase "criminal violation of a restraining order under section 1 of this act" was added for consistency.

<i>KID</i>	<i>Joint Favorable Subst. C/R</i>	JUD
<i>JUD</i>	<i>Joint Favorable Subst.-LCO</i>	